

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALBERT J. GARRY,
Plaintiff,

v.

JOSH YEAGER,
Defendant.

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No. 3:21-cv-00813-B (BT)

ORDER

Plaintiff Albert J. Garry has filed a motion seeking the appointment of counsel to assist him with this *pro se* civil action. (ECF No. 6.) In support of his motion, Garry claims that he has made efforts to obtain counsel from various legal service organizations and the Dallas Bar Association, but he was not successful in his efforts.

A plaintiff in a civil action is not entitled to court-appointed counsel as a matter of right. *Lopez v. Reyes*, 692 F.2d 15, 17 (5th Cir. 1982). Rather, the decision whether to appoint counsel for an indigent litigant rests within the sound discretion of the trial court. *See* 28 U.S.C. § 1915(e)(1). The general showing required to warrant appointment of counsel is exceptional circumstances. *United States v. Property Located at 1604 Oceola*, 803 F. Supp. 1194, 1198 (N.D. Tex. 1992) (citing *Mallard v. United States Dist. Court for Southern Dist. of Iowa*, 490 U.S. 296, 298 (1989) and *Branch v. Cole*, 686 F.2d 264, 266 (5th Cir. 1982)). No clear definition of the “exceptional circumstances” standard exists, but it examines

two basic factors: (1) the type and complexity of the case, and (2) the abilities of the individuals bringing it. *Branch*, 686 F.2d at 266.

Here, Garry has not shown “exceptional circumstances” warranting the appointment of counsel. His complaint was received by this Court on April 8, 2021, and the Court issued an order and notice of deficiency on April 9, 2021, which directed him to file a complaint in compliance with Federal Rule of Civil Procedure 8(a) by May 10, 2021. After Garry files his complaint in compliance with Rule 8(a), it will be judicially screened. At this time, he has failed to demonstrate that he requires counsel to assist him. The request for appointed counsel is therefore denied without prejudice.

SIGNED April 9, 2021.



REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE